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10/076,539	02/19/2002	Michio Okamura	1086.1155	1660

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/076,539	OKAMURA, MICHIO
	Examiner	Art Unit
	Clement B. Graham	3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 April 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-31 remained pending in this Application.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 102
2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-31, are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuo et al (Hereinafter Matsuo U.S Pub: 20010042021).

As per claim 1,   Matsuo discloses an electronic money processing method for a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function, comprising:
a payment accepting step wherein payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated is received from said terminal apparatus; and
a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 2,   Matsuo discloses a wherein in said payment accepting step, as said payment date/time, said terminal apparatus is notified of a selection screen of real-time payment and a designated payment date/time, thereby allowing the user to select either of them. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 3, Matsuo discloses wherein in said payment accepting step, the payment date/time which has been set in a manner such that as said payment money amount is larger, a time lag between said payment application date/time and a payment execution date/time is increased. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 4, Matsuo discloses a wherein in said payment accepting step, prior to accepting the payment, predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is received from said terminal apparatus and collated with a customer database, and when they coincide as a result of said collation, a next inputting process is authenticated. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 5, Matsuo discloses wherein said user authentication information includes a name, an address, and a personal identification number inputted by the user in addition to the account number and the telephone number obtained from said electronic money card. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 6, Matsuo discloses wherein in said payment executing step, if a telephone talk connection is not established in a telephone call to said electronic money card, the execution of the payment is stopped and the payment application is cancelled. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 7, Matsuo discloses wherein in said payment executing step, the execution of the payment is stopped by inputting a payment stop before said payment date/time, and the payment application is cancelled. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 8, Matsuo discloses a n electronic money processing method for a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function, comprising:

a payment accepting step wherein payment application in which a payment money amount has been designated is received from said terminal apparatus; and

a payment executing step wherein a payment date/time is set by changing a time lag from a payment application date/time at which said payment application has been received in accordance with said accepted payment money amount, when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 9, Matsuo discloses further comprising the step of notifying said terminal apparatus of said set payment date/time. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 10, Matsuo discloses wherein in said payment executing step, as said payment money amount is larger, a time lag between said payment application date/time and a payment execution date/time is increased. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 11, Matsuo discloses wherein in said payment accepting step, prior to accepting the payment, predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is received from said terminal apparatus and collated with a customer database, and when they coincide as a result of said collation, a next inputting process is authenticated. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 12, Matsuo discloses wherein said user authentication information includes a name, an address, and a personal 5 identification number inputted by the user in addition to the account number and the telephone number obtained from said electronic money card. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 13, Matsuo discloses wherein in said payment executing step, if the telephone talk connection is not established in the telephone call to said electronic money card, the execution of the payment is stopped and the payment application is

cancelled. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 14, Matsuo discloses wherein in said payment executing step, the execution of the payment is stopped by inputting a payment stop before said payment date/time, and the payment application is cancelled. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 15, Matsuo discloses a program for processing electronic money, wherein said program allows a computer constructing a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function to execute.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) a payment accepting step wherein payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated is received from said terminal apparatus; and a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 16, Matsuo discloses a program for processing electronic money, wherein said program allows a computer constructing a bank server which is connected to a terminal apparatus of the user via the Internet and connected via a mobile phone network to an electronic money card having an interface that can be connected to said terminal apparatus and a mobile phone function to execute:
a payment accepting step wherein payment application in which a payment money amount has been designated is received from said terminal apparatus.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment executing step wherein a payment date/time is set by changing a time lag from a payment application date/time at which said payment application has been received in

accordance with said accepted payment money amount, when said payment date/time
comes, a telephone call is made to said electronic money card, establishment of a
telephone talk connection is confirmed, and payment of the electronic money is
executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-
0163).

As per claim 17,   Matsuo discloses a computer-readable recording medium in
which a program for processing electronic money has been stored, wherein said
program allows a computer constructing a bank server which is connected to a terminal
apparatus of the user via the Internet and connected via a mobile phone network to an
electronic money card having an interface that can be connected to said terminal
apparatus and a mobile phone function to execute:

a payment accepting step wherein payment application in which a payment money
amount and a payment date/time which has been set by changing a time lag from a
payment application date/time in accordance with said payment money amount have
been designated is received from said terminal apparatus.(see column 1 paragraph
0005-0013 and column 4-10 paragraph 0049-0163) and a payment executing step
wherein when said payment date/time comes, a telephone call is made to said
electronic money card, establishment of a telephone talk connection is confirmed, and
payment of the electronic money is executed. (see column 1 paragraph 0005-0013 and
column 4-10 paragraph 0049-0163).

As per claim 18,   Matsuo discloses a computer-readable recording medium in
which a program for processing electronic money has been stored, wherein said
program allows a computer constructing a bank server which is connected to a terminal
apparatus of the user via the Internet and connected via a mobile phone network to an
electronic money card having an interface that can be connected to said terminal
apparatus and a mobile phone function to execute:

a payment accepting step wherein payment application in which a payment money
amount has been designated is received from said terminal apparatus; and

a payment executing step wherein a payment date/time is set by changing a time lag
from a payment application date/time at which said payment application has been

received in accordance with said accepted payment money amount, when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 19, Matsuo discloses an electronic money processing method for a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network, comprising:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated, wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 20, Matsuo discloses wherein in said payment applying step, real-time payment and a designated payment date/time are prepared as said payment date/time, thereby allowing the user to select either of them. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 21, Matsuo discloses wherein in said payment applying step, as said payment money amount is larger, a time lag between said payment application date/time and said payment date/time is increased. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 22, Matsuo discloses wherein in said authentication obtaining step, said user authentication information includes a name, an address, and a personal identification number inputted by the user in addition to the account number and the telephone number obtained from said electronic money card. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 23, Matsuo discloses an electronic money processing method for a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network, comprising:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to the bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount has been designated, wherein when a payment date/time which has been set by changing a time lag from a payment application date/time at which said payment application is received in accordance with said payment money amount accepted by said bank server comes, a telephone call is made to 5said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 24, Matsuo discloses wherein said program allows a computer constructing a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network to execute:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone - number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and

authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated, and wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 25, Matsuo discloses wherein said program allows a computer constructing a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network to execute:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to the bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount has been designated, and wherein when a payment date/time which has been set by changing a time lag from a payment application date/time at which said payment application is received in accordance with said payment money amount accepted by said bank server comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 26, Matsuo discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer constructing a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot

and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network to execute:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated,

and wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 27, Matsuo discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer constructing a terminal apparatus in which an electronic money card having an interface and a mobile phone function is connected to a card slot and which is connected via the Internet to a bank server that is connected to said electronic money card via a mobile phone network to execute:

an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to the bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) a payment applying step wherein said bank server is notified of payment application in which a payment money amount has been designated,

and wherein when a payment date/time which has been set by changing a time lag from a payment application date/time at which said payment application is received in accordance with said payment money amount accepted by said bank server comes, a telephone call is made to said electronic money card, establishment of a telephone talk

connection is confirmed, and payment of the electronic money is executed. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 28, Matsuo discloses a processing method for an electronic money card which is connected to a terminal apparatus of the user via a card slot and connected to a bank server via a mobile phone network, comprising:
a payment supporting step wherein when payment application in which at least a payment money amount has been designated is notified to said bank server by said terminal apparatus, his own telephone number and account number which have previously been stored are provided.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment receiving step wherein when a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount comes, if a telephone call is received from said bank server, establishment of a telephone talk connection is confirmed, and payment of the electronic money is received. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 29, Matsuo discloses wherein in said payment receiving step, it is discriminated that a phone number of an originator obtained by a telephone call from said bank server lies within a predetermined bank telephone number range which has previously been stored, and an automatic response is made, thereby establishing the telephone talk connection.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 30, Matsuo discloses wherein said program allows a computer of an electronic money card which is connected to a terminal apparatus of the user via a card slot and connected to a bank server via a mobile phone network to execute:
a payment supporting step wherein when payment application in which at least a payment money amount has been designated is notified to said bank server by said terminal apparatus, his own telephone number and account number which have previously been stored are provided.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) a payment receiving step wherein when a payment date/time which has been set by changing a time lag from a payment application date/time in

accordance with said payment money amount comes, if a telephone call is received from said bank server, establishment of a telephone talk connection is confirmed, and payment of the electronic money is received. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

As per claim 31, Matsuo discloses a computer-readable recording medium in which a program for processing electronic money has been stored, wherein said program allows a computer of an electronic money card which is connected to a terminal apparatus of the user via a card slot and connected to a bank server via a mobile phone network to execute:

a payment supporting step wherein when payment application in which at least a payment money amount has been designated is notified to said bank server by said terminal apparatus, his own telephone number and account number which have previously been stored are provided.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment receiving step wherein when a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount comes, if a telephone call is received from said bank server, establishment of a telephone talk connection is confirmed, and payment of the electronic money is received. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

Conclusion
RESPONSE TO ARGUMENTS

4.   Applicant's arguments filed 4/5/2007 has been fully considered but they are not persuasive for the following reasons.

5. In response to Applicant's arguments that Matsuo fail to teach or suggest" a payment accepting step wherein payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated is received from said terminal apparatus; and

a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection

is confirmed, and payment of the electronic money is executed and an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is transmitted from said terminal apparatus to said bank server and authentication is obtained and a payment applying step wherein said bank server is notified of payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated, wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed a payment supporting step wherein when payment application in which at least a payment money amount has been designated is notified to said bank server by said terminal apparatus, his own telephone number and account number which have previously been stored are provided and a payment receiving step wherein when a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount comes, if a telephone call is received from said bank server, establishment of a telephone talk connection is confirmed, and payment of the electronic money is received" the Examiner disagrees with Applicant's because these limitations were addressed as stated.

Matsuo teaches a payment accepting step wherein payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated is received from said terminal apparatus; and

a payment executing step wherein when said payment date/time comes, a telephone call is made to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163 and an authentication obtaining step wherein predetermined user authentication information including an account number and a telephone number obtained from said electronic money card is

transmitted from said terminal apparatus to said bank server and authentication is obtained.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment applying step wherein said bank server is notified of payment application in which a payment money amount and a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount have been designated, wherein when said payment date/time comes, a telephone call is made from said bank server to said electronic money card, establishment of a telephone talk connection is confirmed, and payment of the electronic money is executed. (see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and which a program for processing electronic money has been stored, wherein said program allows a computer of an electronic money card which is connected to a terminal apparatus of the user via a card slot and connected to a bank server via a mobile phone network to execute:

a payment supporting step wherein when payment application in which at least a payment money amount has been designated is notified to said bank server by said terminal apparatus, his own telephone number and account number which have previously been stored are provided.(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163) and a payment receiving step wherein when a payment date/time which has been set by changing a time lag from a payment application date/time in accordance with said payment money amount comes, if a telephone call is received from said bank server, establishment of a telephone talk connection is confirmed, and payment of the electronic money is received. .(see column 1 paragraph 0005-0013 and column 4-10 paragraph 0049-0163).

Therefore it is inherently clear that Applicant's claimed limitations were addressed within the teachings of Matsuo.

6.   Applicant's claims 1, 8, 48, 15-19,23-31, states "when a payment date/time which has been set" if a telephone call is received "

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the

language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

(A)   statements of intended use or field of use,

(B)   "adapted to" or "adapted for" clauses,

(C)   "wherein" clauses, or

(D)   "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04. **>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning

assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." Multiform Desiccants Inc. v. Medzam Ltd., 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   • Claim limitations that employ phrases of the type• **" Able to be, so as to be Able, Able to be connected, "At the time of" prohibiting any subsequent use of the method" and on the basis of taking into account " when"** are typical of claim limitations which may not distinguish over prior art. It has been held that the recitation that an element is " adapted to" perform or is capable of" performing a function is not a positive limitation but only requires the ability to so perform.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 29, 2007

FRANTZY POINVIL
PRIMARY EXAMINER

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